



February 14, 2025

The Honorable Theodore D. Chuang, U.S. District Judge
6500 Cherrywood Lane, Suite 245
Greenbelt, MD 20770
(301) 344-3982

Re: Plaintiffs' Notice of Intent to Seek Emergency Preliminary Relief in *Doe v. Musk*, 25-CV-00462

Dear Judge Chuang,

The undersigned counsel submit this letter pursuant to your Honor's Case Management Order, ECF No. 6. We respectfully seek leave to file and brief a motion for emergency preliminary relief as soon as practicable due to the irreparable harm Plaintiffs have suffered and continue to suffer as a result of Defendants' unconstitutional conduct. In light of the weighty constitutional issues and rapidly developing situation, Plaintiffs respectfully ask the court to forgo a pre-motion conference and to enter a briefing and hearing schedule, with a proposed schedule offered below, or in the alternative to hold a conference at the earliest possible date.

- **Tuesday, Feb. 18:** Plaintiffs' Motion for Temporary Restraining Order
- **Thursday, Feb. 20:** Defendants' Response to Motion for Temporary Restraining Order
- **Friday, Feb. 21:** Plaintiffs' Reply to Defendants' Response
- **Friday, Feb. 21 or as soon as practicable thereafter:** Hearing on Temporary Restraining Order at the Court's earliest convenience

Earlier today, Plaintiffs provided the initial court filings in this case to Defendants' counsel and had an initial conversation with Defendants regarding the prospect of timing for preliminary relief and potential expedited discovery in advance of a hearing. Defendants' counsel had not had an opportunity to review the papers and felt they had insufficient information to agree to a timeline.

Nature of the Case and Requested Motion

Plaintiffs J. Does 1-26 are current and recently former employees and contractors of the U.S. Agency for International Development (“USAID”), who have sought leave by this Court to proceed under pseudonyms because the release of their names would expose them to significant risks. *See* ECF No. 3. Plaintiffs brought the above-captioned case against Elon Musk, in his official capacity, as well as against the United States DOGE Service and the Department of Government Efficiency (collectively “DOGE”) for violations of the Constitution’s Appointments Clause and guarantee of Separation of Powers.

By unilaterally directing DOGE subordinates to override internal controls at agencies such as USAID and the Treasury Department, Defendant Musk has created a shadow chain of command that circumvents the checks and balances integral to our federal system. He has assumed extraordinary and unilateral control over multiple federal agencies—commandeering critical systems, terminating access to sensitive data, and directing the shutdown of essential agency operations—all without undergoing the mandatory Senate-confirmed appointment process. The Appointments Clause of Article II Section 2 unequivocally requires that any individual exercising such “significant authority” as a principal officer be nominated by the President and confirmed by the Senate. Defendant Musk has neither been nominated nor confirmed.

Further, DOGE has effectively usurped legislative prerogatives and undermined the system of checks and balances. Defendants’ actions—which include the unlawful obstruction of congressionally appropriated funds, interference with statutorily mandated agency functions, and a general disdain for the carefully crafted legislative requirements that govern access to every American’s most sensitive data—infringe upon Congress’s exclusive domain. This overreach subverts the constitutional distribution of power, consolidating authority in the hands of an individual who is neither elected by the people nor confirmed by the Senate. Hour-by-hour, Defendants are annihilating the Separation of Powers principles that have been the bedrock of the nation since its inception.

Plaintiffs have had their lives upended as a result of the actions undertaken by Defendants Musk and DOGE. *See* ECF No. 4, Compl. ¶¶ 3(a)-(j) & 56(a)-(f). Upon information and belief, Defendants still have full access to the digital infrastructure of Plaintiffs’ agency, causing continued disruptions and maintaining access to Plaintiffs’ (sometimes highly sensitive) personnel files. Moreover, the reckless disregard with which Defendants have exercised their unconstitutional authority has unlawfully disrupted contracts of the United States—some of which are signed by individual Plaintiffs and pose liability to them. Finally, Defendants have repeatedly publicly besmirched the good names of Plaintiffs and other loyal civil servants in order to justify their unconstitutional power grab—causing extraordinary, ongoing and irreparable reputational injury to Plaintiffs that will threaten their ability to obtain future employment.

Given the substantial likelihood of success on the merits and the immediate, irreparable injury that Plaintiffs continue to suffer, Plaintiffs intend to file a motion seeking emergency preliminary relief to expeditiously enjoin Defendants from further exercising their unconstitutional authority. Plaintiffs respectfully request the Court to set an expedited briefing schedule consistent with the one set out above, or, in the alternative, to schedule a pre-motion conference at the earliest possible time.

Respectfully submitted,

/s/ Norman L. Eisen

Norman L. Eisen, [9112170186]

Tianna J. Mays, [1112140221]

STATE DEMOCRACY DEFENDERS FUND

600 Pennsylvania Avenue SE, Suite 15180

Washington, DC 20003

Tel: (202) 594-9958

Norman@statedemocracydefenders.org

Tianna@statedemocracydefenders.org

Mimi Marziani**

Rebecca (Beth) Stevens**

Joaquin Gonzalez**

MARZIANI, STEVENS & GONZALEZ PLLC

1533 Austin Highway, Suite 102-402

San Antonio, TX 78218

Tel: (210) 343-5604

mmarziani@msgpllc.com

bstevens@msgpllc.com

jgonzalez@msgpllc.com

Attorneys for Plaintiffs

**Application for admission *pro hac vice* pending